

## UNITED STATES DISTRICT COURT

## DISTRICT OF NEVADA

BEAU BROWN,

Case No. 3:23-cv-00495-ART-CSD

Plaintiff,

ORDER

v.

STATE OF NEVADA,

Defendant.

Plaintiff Beau Brown filed this civil rights suit in October 2023. (ECF No. 1). Plaintiff's first filing includes a brief challenging the constitutionality of Nevada's Youthful Offender Parole statutes (NRS 176.017, 176.025, and 213.12135) under 28 U.S.C. § 2403(b) and Federal Rule of Civil Procedure 5.1. (ECF Nos. 1-2, 5, 6.)


A prisoner who challenges the constitutionality of their sentence in federal court must file for habeas relief under 22 U.S.C. § 2255. A prisoner seeking money damages or injunctive relief against a state typically sues under 42 U.S.C. § 1983. 28 U.S.C. § 2403(b) governs the certification of state-law questions to state attorneys general. It does not provide an independent right of action.

The Court instructed Plaintiff to file a notice indicating whether he seeks relief under habeas or section 1983. (ECF No. 4.) Plaintiff filed a notice indicating he intended to file a motion under 28 U.S.C. § 2403(b) and Fed. R. Civ. P. 5.1. (ECF Nos. 5, 6.) On April 9, 2024, the Court explained that 28 U.S.C. § 2403(b) and Federal Rule of Civil Procedure 5.1 do not provide a cause of action or basis of relief and provided Plaintiff 30 days to tell the Court whether he seeks to file a habeas petition or civil rights action and to file the corresponding *in forma pauperis* (IFP) application. (ECF No. 8.) Plaintiff has not filed anything for over thirty days.

1 The Court accordingly dismisses Plaintiff's claim without prejudice for  
2 failure to respond to an order and failure to prosecute. Fed. R. Civ. Pro. 41(b).

3 The Clerk of Court is directed to enter judgment accordingly and close this  
4 case. No other documents may be filed in this now-closed case. If Plaintiff wishes  
5 to pursue his claims, he must file a complaint and IFP application indicating the  
6 cause of action under which he wishes to sue.

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9 Dated this 7th day of November 2024.

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13 ANNE R. TRAUM  
14 UNITED STATES DISTRICT JUDGE  
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